VIRGINIA:

IN THE CIRCUIT COURT OF HENRICO COUNTY

ALLEN V. JAFFE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No.
	)	CL02-1729
	)	
RONALD MARK LANDESS, DPM,	)	
	)	
Defendant.	)	

ORDER IMPOSING SANCTIONS

This day came defendant Ronald M. Landess, by counsel, and moved for sanctions against plaintiff Allen V. Jaffe;

As set forth more fully in the Court's Final Order dated October 20, 2003, prior to filing this action, Jaffe had filed four (4) previous actions against Virginia PhotoTherapy, LLC, all arising from the same hair removal treatments which form the basis of this action and all of which had been adjudicated adverse to Jaffe. The Court finds that Jaffe lacked a good faith basis for bringing this action;

In addition, simultaneously with filing this action, Jaffe filed another case against Virginia PhotoTherapy, LLC, No. CL02-1730. This action

had been dismissed by this Court by Order dated January 24, 2003 and Jaffe's Petition for Appeal had been rejected by the Virginia Supreme Court by Order dated June 25, 2003. The Court finds that Jaffe lacked a good faith basis for continued prosecution of this case after entry of the foregoing Orders;

In response to the filing of this action, Landess filed a Special Plea asserting the defense of *res judicata* and on August 8, 2003, filed his Memorandum in Support of Special Plea in which he set forth authorities which compel the conclusion that this matter was barred by *res judicata.* Jaffe failed at the hearing of this matter to present any contrary authority or to distinguish the authorities cited by Landess and, after being given leave to file a post-hearing memorandum, failed in either of his post-hearing memoranda to cite any contrary authority or to distinguish the authorities cited by Landess. The Court finds that Jaffe lacked any good faith basis for his continued prosecution of this matter after receipt of the Memorandum in Support of Special Plea;

In connection with the preparation for hearing of this matter, Landess propounded a Request for Admissions to Jaffe which sought merely his admission as to the authenticity of pleadings and Orders entered in his prior actions against Virginia PhotoTherapy, LLC. Jaffe refused to admit the authenticity of these documents without any good faith basis for doing so. This caused substantial inconvenience to the Clerk of this Court and the Clerk of the Virginia Supreme Court and expense to

Landess in preparing and producing certified copies of these Court records at the hearing of this matter;

The Court issued its opinion by letter dated September 17, 2003 in which it sustained Landess' Special Plea of *res judicata* and instructed the parties to submit a sketch Order in accordance with the Court's rulings. Counsel for Landess timely prepared a sketch Order and submitted same to Jaffe for comment and/or endorsement. Jaffe failed and refused to endorse the Order or to offer any comments to it, necessitating the scheduling of a hearing for presentation of the sketch Order. Notwithstanding that the hearing was duly noticed for October 20, 2003, Jaffe failed to appear. The Court finds that Jaffe lacked any good faith basis for refusing to endorse the sketch Order or for failing to appear at the hearing which was necessitated by his failure to endorse the sketch Order;

After entry of the Final Order at the hearing noticed for that purpose on October 20, 2003 at which Jaffe failed to appear, Jaffe filed a Motion to Vacate said Order. In this Motion to Vacate, Jaffe does not raise any new matter; rather he merely reasserts arguments previously considered and rejected by this Court. Jaffe initiated the hearing for November 10, 2003 and noticed counsel for Landess to be present whereupon counsel for Landess brought on the Motion for Sanctions. The Court finds that Jaffe lacked any good faith basis for filing the Motion to Vacate or bringing it on for hearing;

Upon the basis of the foregoing findings, the Court amends its Final Order dated October 20, 2003 to delete its denial of Landess' Motion for

Sanctions and Motion to Compel and for Sanctions and hereby awards sanctions pursuant to Virginia Code § 8.01-271.1 and Rule 4:12(c) against plaintiff Allen V. Jaffe in the amount of $[350.00, plus court reporter fees. Judgment shall be entered in favor of defendant Ronald M. Landess in such amount including judgment interest from the date of this Order until payment is made. Jaffe's Motion to Vacate said Final Order is denied. In all other respects, the Final Order entered on October 20, 2003 is affirmed and shall be the final judgment of this Court.

ENTER: [November 10, 2003]

[Judge Gary A. Hicks]
JUDGE